

**REMARKS**

Claims 1-20 are pending in this application. Applicant, by this paper, amends claims 5 and 9 in the manner suggested by the Examiner. No new matter is added by amendment.

Claims 1-11 stand rejected and claims 12-20 were objected to as dependent upon a rejected base claim but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Applicant thanks the Examiner for the indication of allowable subject matter. Applicant does not incorporate the base claim into the objected to claims at this time in order to first address the 35 U.S.C. §112 rejections of the base claims.

Applicant respectfully traverses the rejections and requests reconsideration and allowance of all pending claims.

**Discussion of Claim Objections**

The Examiner objects to claims 5 and 9 for informalities and requires correction of the informalities in the claims.

**Claim 5** is amended in the manner suggested by the Examiner to replace the phrase “each of said plurality of signal levels from each of said plurality of active sectors” with –each of said plurality of signal levels received from said plurality of active sectors--.

**Claim 9** is amended in the manner suggested by the Examiner to spell out DRC the first time the acronym appears in the claim.

Applicant respectfully requests entry of the amendments as incorporating the amendments suggested by the Examiner to overcome the objections. Furthermore, the amendments are believed to place the application in better condition for appeal by overcoming the objections to the claims.

**Discussion of Rejections Under 35 U.S.C. §112, First Paragraph**

Claims 1-11 were rejected under 35 U.S.C. §112, first paragraph, for lack of enablement. In particular, claim 1 is rejected for lack of enablement with respect to the claimed comparator and accumulator. Claims 2-4 were rejected based on their dependence from claim 1. Claim 5 was rejected for substantially the same reasons as presented for claim 1. Claims 6-11 were

rejected based on their dependence from claim 5. Applicant respectfully traverses the rejection and request reconsideration and allowance of the claims.

Applicant notes that the embodiments described in Applicant's Specification are examples of systems and methods embodying the invention. The claims need not include every feature from the examples presented in the Specification where the feature described in the Specification is not essential to the invention.

**Claim 1** is reproduced in its entirety below to facilitate discussion of the various claim elements.

1. (Previously Presented) An access terminal for selecting a best serving sector in a wireless communication system comprising:

a signal level estimator to deduct an offset value from a fixed rate signal level of a current serving sector and a fixed rate signal level of each of a plurality of active sectors in an active set to generate an adjusted fixed rate signal level for each of the current serving sector and sectors in the active set;

a comparator to determine differences between a plurality of signal levels received from each of the plurality of active sectors and at least the adjusted fixed rate signal level of the current serving sector;

an accumulator for accumulating total credits for each of the plurality of signals from each of the plurality of active sectors based on the comparison; and

a new sector identification module to receive the accumulated total credits and to select the best serving sector among a pool of candidate sectors based on the accumulated total credits.

#### The Claimed Signal Level Estimator

As noted in Applicant's amendment, dated October 28, 2008, the signal level estimator is described in Applicant's Specification, as filed, at FIG.8A and paragraph [0067]. The Office Action, in the "Response to Arguments" section, does not note deficiencies in this supporting description. Thus, the claimed "signal level estimator" is believed to be enabled by Applicant's Specification.

#### The Claimed Comparator

With respect to the claimed "comparator," the Examiner, in the "Response to Arguments" section of the Office Action states that it is not clear how Applicant maps the supporting disclosure cited in the Amendment of October 28, 2008 to the features of the claimed comparator. Applicant apologizes for the lack of clarity in the prior explanation and provides additional explanation below.

Applicant's claim 1 features "a comparator to determine differences..." FIG. 8A from Applicant's Specification, as filed, illustrates a comparator 810. Applicant's Specification states: "*Comparator 810 determines differences 812, DiffVV, DiffFV, DiffVF, and DiffFF as per procedure 300.*" Specification, at paragraph [0067]. (*emphasis added*). Applicant's Specification expressly supports "a comparator to determine differences..."

Applicant believes that the description of "determin[ing] differences 812, DiffVV, DiffFV, DiffVF, and DiffFF as per procedure 300" supports the claimed feature of "determin[ing] differences between a plurality of signal levels received from each of the plurality of active sectors and at least the adjusted fixed rate signal level of the current serving sector" for the following reasons.

Applicant's Specification states: "procedure 300 begins a series of comparisons between the active signal level of the current serving sector with that of all other active sectors." Specification, at paragraph [0033]. The procedure of FIG. 3 thus expressly describes performing the comparisons for each active sector.

"In each comparison, *the variable rate and adjusted fixed rate signal levels of the current serving sector are compared with the variable rate and adjusted fixed rate signal levels of an active sector.*" Specification, at paragraph [0033]. (*emphasis added*). The variable rate and adjusted fixed rate *signal levels* of an active sector correspond to the claimed "plurality of *signal levels* received from each of the plurality of active sectors."

Steps 310 and 314 of Procedure 300 of FIG. 3 describe *computing a difference* between one of the signal levels (either variable rate or adjusted fixed rate) of an active sector with the adjusted fixed rate signal level of the current serving sector. See, Specification, at FIG. 3. As stated in Applicant's Specification, "It is thus appreciated that each DiffXX value, i.e. Diff FF, DiffFV, DiffVF, and DiffVV, determined in procedure 300 reflects the difference in signal level between the current serving sector and an active sector." Specification, at paragraph [0038].

Therefore, Applicant believes that the Specification, as filed, describes and enables the claimed feature of "determin[ing] differences between a plurality of signal levels received from each of the plurality of active sectors and at least the adjusted fixed rate signal level of the current serving sector." Applicant respectfully believes that the claimed feature of "a comparator

to determine differences between a plurality of signal levels received from each of the plurality of active sectors and at least the adjusted fixed rate signal level of the current serving sector" for the reasons presented above.

The Claimed Accumulator

Claim 1 also features "an accumulator for accumulating total credits for each of the plurality of signals from each of the plurality of active sectors based on the comparison." Applicant's FIG. 8A illustrates accumulator 814. As stated in Applicant's Specification "*Accumulator 814 provides accumulated total credits DeltaCreditVV, DeltaCreditVF, DeltaCreditFV, and DeltaCreditVV to credit authorization module 820.*" Specification, at paragraph [0067]. (*emphasis added*). The accumulator applies hysteresis *during accumulation* as described in association with the process 400 of FIG. 4. See, generally, Specification, at paragraph [0067]. Applicant's Specification expressly describes the accumulator as accumulating total credits.

The claimed "plurality of signals from each of the active sectors", as explained above in relation to the discussion regarding the claimed comparator, is described in the Specification as the variable rate and adjusted fixed rate signal levels of an active sector.

Applicant's FIG. 4 illustrates that the comparison performed by the comparator determines whether the DeltaCredit value corresponding to the signal is incremented or decremented. Thus, the total credits that are accumulated by the accumulator are based on the comparison.

As shown above, each DeltaCredit value corresponds to a signal from an active sector, and the accumulated DeltaCredit value is based on the comparison determined by the comparator (the DiffXX value). Thus, Applicant's Specification describes "an accumulator for accumulating total credits for each of the plurality of signals from each of the plurality of active sectors based on the comparison," as claimed.

Applicant believes that the Specification supports and enables each of the elements from claim 1, and in particular, supports and enables the claimed signal level estimator, comparator, and accumulator in the manner claimed. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §112, first paragraph.

**Claims 2-4** depend from claim 1 and are believed to be allowable based on the allowability of claim 1. None of claims 2-4 includes independent ground for a 35 U.S.C. §112, first paragraph, rejection. Applicant respectfully requests allowance of claims 2-4.

**Claim 5** includes similar features to those described above in relation to claim 1. The Examiner bases the rejection of claim 5 on the reasons presented in the earlier office action and those reasons presented in the rejection of claim 1. See, generally, Office Action, dated March 5, 2009, at pages 3 and 5. In particular, the Examiner alleges that the comparator and accumulator are not enabled as recited in the claim.

The Claimed Comparator

Applicant's claim 5 includes a comparator element. In particular, the claim features "a comparator comparing each of a plurality of signal levels received from a plurality of active sectors with a signal level of a current serving sector to produce a difference."

The comparator of claim 5 is similar to the comparator of claim 1. The support for the claimed comparator of claim 5 is explained above in relation to the discussion of the comparator of claim 1.

The Claimed Accumulator

Applicant's claim 5 also includes an accumulator. The amended claim features "an accumulator, coupled to the comparator, for generating a delta credit for each of said plurality of signal levels received from said plurality of active sectors based on said difference and for accumulating a plurality of delta credits to produce an accumulated delta credit for each of said plurality of signals from each of said plurality of active sectors."

The accumulator of claim 5 is similar to the accumulator of claim 1. However, the accumulator of claim 5 features generating a delta credit and accumulating a plurality of delta credits.

This feature is also described in Applicant's Specification in relation to the accumulator of FIG. 8B in conjunction with the process of FIG. 4. As described in FIG. 4, a DeltaCredit value is incremented or decremented according to a difference (DiffXX value) determined by the comparator. Again, as was described above in relation to claim 1, the plurality of signals from

each of said plurality of active sectors refers to the signals from the active sector that the comparator uses to determine the DiffXX value.

Claim 5 is believed to be supported and enabled in Applicant's Specification, and Applicant respectfully requests reconsideration and allowance of claim 5.

Claims 6-11 depend from claim 5 and are believed to be allowable at least based on their dependence from claim 5. None of claims 6-11 includes independent ground for a 35 U.S.C. §112, first paragraph, rejection.

#### **Discussion of Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 1-4 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. In particular, the Examiner alleges that "it is unclear what is meant by the term 'total credit for each' in line 11 because it is unclear whether each of the plurality of signals from each of the plurality of active sectors has a partial credit to accumulate into one total credit." See, Office Action, at pages 5-6.

The rejection appears to be based on the element from claim 1 which reads "an accumulator for accumulating total credits for each of the plurality of signals from each of the plurality of active sectors based on the comparison." The Examiner's interpretation of the claim element is not supported by the claim language or the specification.

Interpreted solely from the language of the claim element, it is clear that total credits are accumulated for *each* of a plurality of signals. The phrase "total credits ...for each" clearly refers to one total credit for each signal of the plurality of signals. Moreover, there is a plurality of signals from each of the plurality of active sectors. The phrase "total credits ...for each" is modified by the phrase "of a plurality of signals" and that phrase, in turn, is modified by the phrase "from each of the plurality of active sectors." Thus, not only is there a plurality of signals, but there is a plurality of signals from each of a plurality of active sectors.

Based solely on the language of the claim, there is a total credit accumulated for each of the plurality of signals from each of the plurality of active sectors. Thus, the total instances of 'total credits' accumulated is equal to the number of the plurality of signals multiplied by the number of active sectors.

The Examiner's contention that 'one total credit' is accumulated is not supported by the claim language. Such an interpretation would effectively eliminate the phrase "for each" appearing in the claimed phrase "total credits...*for each* of the plurality of signals."

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

**Claims 2-4** depend from claim 1 and are believed to be allowable based on their dependence from claim 1. There is no independent rejection of any of claims 2-4 on the grounds of 35 U.S.C. §112, second paragraph. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. §112, second paragraph, and allowance of claims 2-4.

#### **Summary**

For at least the foregoing reasons, it is respectfully submitted that claims 1 and 5 are enabled in the Specification, as filed, and not indefinite. The remaining dependent claims, including claims 2-4 and 6-20 are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

#### **REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

#### *Deposit Account Authorization*

Applicant believes that the instant response is filed within the Shortened Statutory Period for response provided in the Office Action of March 5, 2009.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made.

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If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated:

5/5/09

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